

This letter discusses fees charged in retail sale and lease situations. See 86 Ill. Adm. Code 130.420. (This is a GIL.)

September 13, 2004

Dear Xxxxx:

This letter is in response to your letter dated August 2, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are implementing a charge for NSF checks and need guidance concerning the tax status of the \$25 charge.

For example, if a customer gives us an NSF check in payment for an invoice, ABC will charge that customer \$25 as a penalty/administrative processing charge. Is that charge subject to sales tax?

As always, your help and guidance is greatly appreciated. You may mail your response to me at the address on this letter.

DEPARTMENT'S RESPONSE:

Your letter does not indicate if the transaction involves a retail sale of tangible personal property or a true lease. Additional fees may be subject to tax liability depending on the nature of the transaction.

In general, excess mileage, wear and tear, cancellation, insufficient funds, and other administrative fees are not subject to tax in a true lease transaction. Information regarding administrative fees in a leasing situation may be found in general information letter ST 99-0210-GIL,

which may be found among the sales tax "Sunshine" letter rulings on the Department's internet website.

In a conditional sale situation, whether the fee is subject to tax depends upon the particular language of the agreement. We cannot provide you with a more specific answer because of the limited information provided. For general information regarding finance, interest and penalty charges, including discounts, for tangible personal property sold under conditional sales, please see 86 Ill. Adm. Code 130.420.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk